

**COMMON MANUAL UPDATES**  
**Policies Approved March 20, 1997**

**9.1.C.            NEW SECTION**

**Requirements for Reporting Consolidation Loans Modified**

Guarantors need to know the total amount of each Consolidation loan a lender makes. Although the *Common Manual* currently requires the lender to notify the guarantor of each Consolidation loan it makes, it does not specify a time frame within which this reporting should occur.

Lenders must now report to the guarantor that a Consolidation loan has been made within 60 days of the date on which the loan is initially disbursed. If a lender adds a loan within the 180-day add-on period or makes any other adjustment to the outstanding original balance of a Consolidation loan, the lender must report the new Consolidation loan information to the guarantor within 60 days of the date on which the additional loan funds are disbursed or the adjustment is made.

The guarantor reserves the right to take any action it deems appropriate, including the withdrawal of the loan guarantee, if the lender fails to report the making of a Consolidation loan, fails to report the disbursement of additional funds, or fails to report any other adjustment of the outstanding original balance within 60 days after that activity occurs.

This change is effective for Consolidation loans made by the lender on or after July 1, 1997, unless previously implemented by the guarantor. A new subsection 9.1.C. will be added to the *Common Manual* to address this revised lender reporting requirement.

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**3.8.A. ANNUAL COMPLIANCE AUDIT**

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**3.8.D. THIRD PARTY SERVICER AUDITS**

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**Lender and Servicer Compliance Audit Requirements Published**

Federal regulations published November 29, 1996, and *Dear Colleague Letter (DCL) LS-97-01*, published December, 1996, make changes to lender and third-party lender servicer compliance audit requirements. A lender is required to have an independent compliance audit of the administration of its FFELP loan portfolio. Similarly, a third-party lender servicer is required to have an independent compliance audit of its administration of FFELP loan portfolios for its lender clients. Lender servicers, however, have not had definitive federal guidance for audit requirements until the Department published the DCL and the accompanying *Audit Guide*. Based on this guidance and the new regulatory provisions, several changes are being made to the *Common Manual*.

A lender is required to submit a compliance audit report to the Department if, for the fiscal year being audited, it made or held:

FFELP loans totaling \$10 million or more.

More than \$5 million but less than \$10 million in FFELP loans and its compliance audit report identifies findings of noncompliance.

A lender who made or held FFELP loans totaling more than \$5 million but less than \$10 million for the fiscal years being audited and whose report does not disclose findings of noncompliance must retain those reports for a period of 5 years and submit them to the Department only if requested.

A lender who made or held less than \$5 million in FFELP loans historically has been delayed from meeting the requirement to submit an annual compliance audit. However, lenders should consult the Department's office in their region to confirm the status of this provision.

Previously, a servicer who contracted with a single FFELP lender was exempt from the audit requirement if the compliance audit of that lender encompassed every aspect of the servicer's administration of that lender's loan portfolio. New regulations, effective July 1, 1997, clarify that a third-party servicer that contracts with more than one lender must have performed a compliance audit that covers the servicer's administration of Title IV programs for all the lenders for which it services. This requirement may be satisfied with a single audit of all the servicer's functions if the audit encompasses all the services provided for the lenders for which it provides such services.

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Except for the initial audit, an audit must be completed annually and submitted no later than 6 months after the end of the servicer's fiscal year. The initial audit must cover the servicer's first full fiscal year beginning on or after July 1, 1994. Regulations require that the initial audit be submitted within 6 months of the end of the audit period. However, delays in the publication of the servicer audit guide resulted in the Department allowing servicers to submit the first audit by May 31, 1997. Periods covered by the initial audit depend on when the lender servicer's fiscal year ends:

If the fiscal year ends June 30 through October 31, the lender servicer may combine the annual compliance audit for fiscal years 1995 and 1996, or may have separate audits performed for each of those years.

If the fiscal year ends November 1 through December 31, the lender servicer must have the initial compliance audit performed for fiscal year 1995.

If the fiscal year ends January 1 through June 29, the lender servicer must have the initial compliance audit performed for fiscal year 1996.

If a servicer had an independent audit performed of its servicing functions for fiscal year 1995 and 1996 to support the lender audit requirement, the servicer may submit those audits to the Department as meeting its servicer audit requirement for those fiscal years, provided those audits meet certain standards.

Lenders and servicers should consult the *Audit Guide: Compliance Audits (Attestation Engagements) for Lenders and Lender Servicers Participating in the Federal Family Education Loan Program*, published December 1996, and provide the information to their independent auditors.

Provisions related to the submission of the servicer audit report are effective immediately. For lender audits, the revised guidance contained in the Department's *Audit Guide* is effective for fiscal years ending on or after December 31, 1996. Provisions to permit a third-party servicer to have a single audit for multiple lender clients are effective July 1, 1997. This information will be added to subsections 3.8.A. and 3.8.D. of the *Common Manual*.

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**Lender Recordkeeping Requirements**  
**Electronic Processes**  
**Financial Responsibility**  
**Information Sharing with a Lender or Guarantor**  
**School Recordkeeping Requirements**  
**Schools on Reimbursement Payment Method**  
**Payment Period**  
**Due Diligence Schedules and Activities**  
**Late Charges**

In November, 1996 the U.S. Department of Education (the Department) published final regulations that affect schools and lenders. These new regulations are effective July 1, 1997, and, among other things, modify federal requirements for:

- School and lender recordkeeping [34 CFR 668.23, 668.24, 682.414, and 682.610].
- Administrative capability and financial responsibility of schools [34 CFR 600.40, 668.15, 668.16, 668.23, and 682.203].
- Information sharing and scheduling and delivery of loan proceeds by schools [34 CFR 668.4 and 668.24].
- Loan certification and delivery requirements for schools placed on reimbursement payment method [34 CFR 668.167, 682.603, and 682.604].
- Timing and content of collection letters by lenders [34 CFR 682.411].
- Assessment of late charges by lenders [34 CFR 682.202].

The following describes how each of these new federal requirements will be implemented. The *Common Manual* will be updated to reflect these changes. Schools and lenders are encouraged to review the federal regulations to identify and conform to other new or revised federal requirements of the Department .

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**3.4.A. RECORDKEEPING REQUIREMENTS**

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**Lender Recordkeeping Requirements Expanded**

The Department of Education has updated lender recordkeeping requirements to allow lenders more flexibility to use different forms of storage media. Lenders may store required records ---except for the promissory note--in hard copy or on microform, computer file, optical disk, CD-ROM, or other imaged media formats. All records must be retrievable in a coherent hard copy format or in other imaged media formats such as microform, computer file, optical disk, or CD-ROM. Other imaged media formats may also be used and do not require preapproval by the Department. Any imaged media format used must be capable of reproducing an accurate, legible, and complete copy in approximately the same size as the original document. If a document contains a signature, seal, certification, or any other validating mark, it must be maintained in original hard copy or in an imaged media format.

As a reminder, the original promissory note signed by the borrower must still be retained by the lender or guarantor. Subsection 3.4.A. of the *Common Manual* will be revised to incorporate this change, which is effective for records retained on or after July 1, 1997. Lenders may implement this policy earlier.

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**4.2 ADMINISTRATIVE CAPABILITY STANDARDS**

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**Schools Required to Participate in Electronic Processes**

A new standard of administrative capability established by the Department of Education requires that a school must participate in the electronic processes that the Department provides at no substantial charge to the school. These processes will be identified in notices published by the Department in the *Federal Register*. The Department expects to provide these notices annually. Schools are not restricted to using only software and services provided by the Department.

Section 4.2 of the *Common Manual* will be updated to reflect this requirement. This standard is effective July 1, 1997, subject to the Department's publication of notice of required electronic processes in the *Federal Register*.

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**4.3 FINANCIAL RESPONSIBILITY STANDARDS**

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**4.13 INDEPENDENT AUDITS**

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**Financial Standards for Schools Expanded**

While the Department of Education withheld some elements of its proposed standards of financial responsibility for schools, other important regulatory changes affect the timing and content of the financial and compliance audits that a school must perform.

Schools will be required to perform both annual compliance and financial audits based on their fiscal year and to submit those audits within 6 months of the end of their fiscal year. The financial statement must include a detailed description of related entities (as defined in the "Statement of Financial Accounting Standards") and should list parties related to the school and details that enable the Department to readily identify the related entities. The Department also may require the submission of additional financial statements that define the school's financial relationships to related entities that have the ability to significantly influence or control the school. A proprietary school must disclose in a footnote to its financial statement the percentage of its revenues derived from Title IV programs during the covered fiscal year.

In addition to adding these new regulatory provisions, the *Common Manual* will be enhanced to provide more information on school compliance audits. Current annual compliance audit requirements will be added, as well as the requirement that each compliance audit must cover all Title IV transactions in that fiscal year and all transactions that occurred since the period covered by its last compliance audit.

A school that has a compliance or financial audit performed must allow the Department or its authorized representative access to records, audit work papers, and other documents necessary to review the audit, including the right to obtain copies of those records, work papers, and documents. The school also must require the auditor to permit the Department or its authorized representative access to its records and papers regarding the school's audit. In addition, the school must permit the Department or its authorized representative access to any records or documentation that would assist in the review of the school's third-party servicer's compliance or financial statement audit.

New regulations also specify audit requirements for a foreign school. Foreign schools also must submit an audited financial statement of the most recently completed fiscal year. If a school receives less than \$500,000 U.S. in Title IV program funds during that fiscal year, its audited financial statement for that year may be prepared under the auditing standards and accounting principles of the school's home country. If a foreign school receives \$500,000 (U.S.) or more in Title IV program funds during its most recently completed fiscal year, the school must submit its audited financial statement in

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accordance with (U.S.) federal regulation and satisfy the general standards of financial responsibility outlined for schools in the United States, or must qualify under an alternate standard of financial responsibility specified in regulation.

These new requirements are effective July 1, 1997, and will be added to sections 4.3 and 4.13 of the *Common Manual*.



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**4.8.B. REPORTING STUDENT STATUS CHANGES  
TO THE LENDER OR GUARANTOR**

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**School Information Sharing with the Department, a Lender, or a Guarantor  
Modified**

Currently, schools must promptly provide information about borrowers upon request by the Department, a lender, or a guarantor. Schools should respond to such a request within 30 days.

In addition to providing any information the school has regarding the last known address, full name, employer, and employer address of a borrower who attends or has attended the school, the school now must also provide the borrower's telephone number and enrollment information. This information-sharing requirement also applies to the school's designated servicer.

This change is effective for requests for information received by the school on or after July 1, 1997. Earlier implementation by the school is acceptable. Subsection 4.8.B. of the *Common Manual* will be revised to incorporate this change.

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**4.10 RECORDKEEPING REQUIREMENTS**  
**APPENDIX G**

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**School Recordkeeping Requirements Modified**

The Department has consolidated and clarified existing record retention rules to reduce the administrative burden on schools. A compilation of the key records a school is required to maintain for the FFEL program follows. Additional information on school recordkeeping requirements for all Title IV programs--including a comprehensive listing of required records--can be found in chapter 2 of *The Federal Student Financial Aid Handbook*. Schools should consult state recordkeeping requirements to determine whether state requirements supersede federal requirements.

Federal regulations mandate that a school retain complete and accurate records in a systematically organized manner. Records must be readily available for review by the Department or the Department's authorized representative at an institutional location designated by the Department or the Department's authorized representative.

Program Records A school must maintain any application for FFELP funds and up-to-date records that document the following: the school's eligibility to participate in the FFELP, the eligibility of the school's educational programs for FFELP funds, the school's administration of the FFELP in accordance with all applicable requirements, the school's financial responsibility, information included in any application for FFELP funds, and the school's delivery of FFELP funds.

Fiscal Records Fiscal records must be maintained in accordance with generally accepted accounting principles. Schools must maintain on a current basis all financial records relating to each FFELP transaction and separate general ledger control accounts and related subsidiary accounts that identify each FFELP transaction.

Loan-Related Records The records that a school must keep for each FFELP loan include, but are not limited to:

A copy of the loan application--or application data, if submitted electronically to a lender or a guarantor--including the name of the borrower and, for PLUS loans, the name of the student on whose behalf the loan was made.

The name and address of the lender.

Documentation of each student or parent borrower's receipt of FFELP funds, including, but not limited to, the loan amount, the payment period, and the period of

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enrollment for which the loan was intended; calculations used to determine the loan amount; the date(s) and amount(s) of each delivery of loan proceeds by the school to the student or parent borrower; the date and amount of any refund paid to or on behalf of the student and the method by which the refund was calculated; and the payment of any refund to a lender or the Department.

The Student Aid Report (SAR) or the Institutional Student Information Record (ISIR).

Documentation of each student or parent borrower's eligibility for FFELP funds, such as documentation of need, cost of attendance, verification, enrollment status, financial aid history, satisfactory progress, etc.

The school's receipt date for each disbursement of the loan.

For loans disbursed to the school by copayable check, the date the school endorsed each check.

For loans disbursed by electronic funds transfer (EFT) or by master check, the student or parent borrower's authorization to the school to transfer the initial and subsequent disbursements of each FFELP loan to the student's school account.

Proof that entrance and exit counseling requirements were met.

Any required reports or forms and any records needed to verify data reported in those reports or forms.

Documentation supporting the school's calculation of its completion and graduation rates.

Retention Period A school--and its successor owners, if applicable--must keep all required records relating to a student or parent borrower's eligibility for, and participation in, the FFELP for 3 years after the end of the award year *in which the student last attended the school*. In addition, a school must keep copies of all reports (such as its SSCRs) and forms used by the school to administer FFELP loans for 3 years after the end of the award year *in which those records were submitted*. Any records relating to a loan, claim, or expenditure questioned in an audit, program review, investigation, or other review must be retained until the later of the resolution of the question or the end of the retention period applicable to the record.

Schools are encouraged to keep records longer than the minimum 3-year period to aid in their defense of cohort default rate appeals, claims of false certification, or other borrower defenses.

Media Formats Records may be kept in hard copy or in other media formats (such as microform, computer file, CD-ROM, or optical disk). Except for the SAR and ISIR, all

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records must be retrievable in a coherent hard copy format or in other media formats acceptable to the Department. The SAR must be maintained in either its original hard copy format or in an imaged format. The ISIR, which is an electronic record, must be maintained in the same format in which it was received.

Any imaged media format must be capable of reproducing an accurate, legible, and complete copy in approximately the same size as the original document. If a document contains a signature, seal, certification, or any other validating mark, it must be maintained in original hard copy or in an imaged media format.

Availability of Records A school's (or its designated servicer's) records must be made available to the Department, an independent auditor, the Department's Inspector General, the Comptroller General of the United States, or the authorized representative of any of these entities, the school's accrediting agency, or a guarantor. The records may be used to assist any or all of these entities in program reviews, audits, or investigations or to assist in the resolution of issues and complaints from students, parents, or lenders. If a school closes, stops providing all educational programs, is suspended or terminated, or changes ownership, the school--or the school's new owners--must continue to keep the records required for the applicable 3-year period and must ensure that access to these records remains open to the Department or its authorized representative, and the guarantor.

Definition of Award Year The definition of "award year" has been changed as follows:

**Award Year:** The period between July 1 of a given calendar year and June 30 of the following calendar year.

These recordkeeping requirements are effective for any record that meets the 3-year retention requirement on or after October 20, 1994. All other provisions are effective July 1, 1997. Section 4.10 and appendix G of the *Common Manual* will be revised to incorporate these changes.

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<b>5.8</b>	<b>SCHOOL CERTIFICATION OF THE APPLICATION AND PROMISSORY NOTE</b>
<b>6.3.E.</b>	<b>DELIVERY OF PROCEEDS</b>

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**Loan Certification and Delivery Requirements for Schools on Reimbursement  
Payment Method**

The Department has modified loan certification and delivery requirements for schools placed on the reimbursement payment method. A school's certification or delivery of Stafford or PLUS loans will be affected if the school is placed on the reimbursement payment method for the Federal Pell Grant, FDLP, or campus-based program by the Department.

A school placed on the reimbursement payment method by the Department must receive approval from the Department before delivering Stafford or PLUS funds to its borrowers. To receive approval to deliver Stafford or PLUS loan funds, the school must submit to the Department, or its designated entity, documentation of eligibility for each Stafford and PLUS loan application for whom the school wishes to deliver funds.

The Department may prohibit the school from certifying Stafford or PLUS loan applications prior to receiving Department approval. To receive approval to certify applications, if instructed to do so by the Department, the school must submit to the Department, or its designated entity, documentation of eligibility for each Stafford and PLUS loan applicant for whom the school wishes to certify an application.

In addition, the Department may prohibit the school from endorsing a master check or obtaining a borrower's endorsement on any FFELP check. The Department may require the school to maintain any Stafford or PLUS loan funds received by electronic funds transfer (EFT) in a separate bank account.

A school participating solely in the Federal Family Education Loan Program may be required to seek the Department's approval to deliver Stafford or PLUS loan funds if the Department determines a need to monitor the school's participation.

These changes are effective for loan periods beginning on or after July 1, 1997. Section 5.8 and subsection 6.3.E. of the *Common Manual* will be updated to reflect these requirements.

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**5.8.D. DETERMINING THE DISBURSEMENT SCHEDULE**  
**APPENDIX G**

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**Schools Required to Use Payment Period as Basis for Disbursements**

The Department has adopted a uniform definition of payment period for all Title IV HEA programs and requires that program funds be scheduled for disbursement on the basis of payment period. Schools will now be required to schedule and deliver disbursements for a particular loan period on the basis of these payment periods. A payment period is determined by the structure of the school's academic program. At a school that does not use standard terms, a payment period is measured in credit or clock hours completed by the student in relation to the length of the student's program of study. The payment period requirement does not eliminate the multiple disbursement requirement for a school to deliver loan proceeds in substantially equal installments, with no installment exceeding one-half of the loan amount.

For an eligible program that offers academic terms in semesters, trimesters, or quarters and measures progress in credit hours, the payment period is the semester, trimester, or quarter.

For an eligible program that measures progress in credit hours and does not have standard terms or that measures progress in clock hours, the payment period varies, depending on the length of the program, as shown below:

For an eligible program that is 1 academic year or less in length, the following applies:

The first payment period is the period of time in which the student completes the first one-half of the program as measured in credit or clock hours.

The second payment period is the period of time in which the student completes the second one-half of the program as measured in credit or clock hours.

For an eligible program that is more than 1 academic year in length, for the first academic year and any subsequent full academic year as measured in credit or clock hours, the following applies:

The first payment period is the period of time in which the student completes the first one-half of the academic year as measured in credit or clock hours.

The second payment period is the period of time in which the student completes the second one-half of that academic year.

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For any remaining portion of an eligible program that is more than one-half an academic year in length, but less than a complete academic year, the following applies:

The first payment period is the period of time in which a student completes the first one-half of the remaining portion of the eligible program as measured in credit or clock hours.

The second payment period is the period of time in which the student completes the remainder of the eligible program.

For any remaining portion of an eligible program that is not more than one-half an academic year as measured in credit or clock hours, the payment period is the remainder of that eligible program.

If the student cannot earn one-half the credit hours in an eligible program that is less than 1 academic year in length or earn one-half of the remaining portion of an eligible program that is more than 1 academic year in length until after the calendar midpoint between the first and last scheduled days of class, the second payment period begins on the later of the following:

The calendar midpoint between the first and last scheduled days of class of the program or academic year.

The date, as determined by the school, that the student has completed one-half of the academic course work.

If in an academic year, in a program of less than an academic year, or in the remaining portion of an eligible program that is more than 1 academic year in length, a school chooses to have more than 2 payment periods in the academic year, the number of payment periods must correspond to portions of the academic year. If a school chooses to have 3 payment periods, each payment period must correspond to one-third of the academic year. If 3 payment periods are used and the program or its remaining portion is more than one-third, but less than two-thirds of the academic year, 2 payments are required, with each payment period covering one-half of the remaining portion. If the remaining portion is greater than two-thirds of the academic year, but less than 1 academic year, 3 payments are required, each covering one-third of the remaining portion.

Definitions of the terms "Payment Period", "Loan Period", and "Period of Enrollment" in appendix G of the *Common Manual* will be added or revised to reflect the new regulatory requirements.

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**Payment Period:** The basis on which a school must schedule and deliver disbursements for a particular loan period. A payment period is determined based on the structure of the school's academic program. At a school that does not use standard terms, a payment period is measured in credit or clock hours completed by the student in relation to the length of the student's program of study. The payment period requirement does not eliminate the multiple disbursement requirement for a school to deliver loan proceeds in substantially equal installments, with no installment exceeding one-half of the loan amount. See subsection 5.8.D.

**Loan Period:** The period of time for which a loan is certified.

**Period of Enrollment:** As defined by federal regulation, the period for which a Stafford or PLUS loan is intended. The period of enrollment must coincide with a bona fide academic term established by the school for which the school's charges are generally assessed, i.e., semester, trimester, quarter, length of the student's program or the school's academic year. The period of enrollment is also referred to as the loan period (see subsection 5.7.C.) In addition, the term "period of enrollment" is commonly used by the financial aid community to refer to the period of time during an academic year when a student is enrolled at the school.

These changes are effective for loan periods beginning on or after July 1, 1997. Section 5.8.D. and appendix G of the *Common Manual* will be updated to reflect this requirement.



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<b>8.1.D.</b>	<b>DUE DILIGENCE SCHEDULES AND ACTIVITIES</b>	<b>Page 3</b>
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<b>8.1.G.</b>	<b>DILIGENT EFFORTS TO CONTACT BORROWER BY TELEPHONE</b>	<b>Page 8</b>

**Timing and Content of Delinquency Notices and Collection Letters Modified**

The Department has modified the timing and content of the first delinquency notice and subsequent collection letters. Currently lenders must send borrowers the first delinquency notice no later than the 10th day of delinquency. Lenders will now be required to send the first delinquency notice no later than the 15th day of delinquency. The content of this first delinquency notice has been modified to include, at a minimum, lender/servicer contact information and a telephone number (e.g., the name and telephone number of the customer service department). It also must include a prominent statement informing the borrower that assistance may be available if the borrower is experiencing difficulty in making a scheduled payment.

Because of the change in the timing of the first delinquency notice, the time frame for the second “window” of collection activity will change from the current 11-180 days delinquent period to 16-180 days (16-240 days delinquent for a loan repayable in installments less frequent than monthly). At least one of the four written notices or collection letters sent during this period must include, at a minimum, information regarding deferment, forbearance, income-sensitive repayment, loan consolidation and other available options to avoid default.

The content of at least 2 of the 4 collection letters sent during the 16-180 day period has also been modified to add language to inform the borrower the guarantor may also offset other payments made by the federal government to the borrower and that the guarantor may assign the loan to the federal government for litigation against the borrower. The current requirement that the letters advise the borrower that the guarantor may bring suit against the borrower to compel repayment of the loan has been eliminated. Therefore, the content of at least two of the collection letters required during this period must now warn the borrower that if the loan is not paid (a) the loan may be assigned to the guarantor, which would result in a default being reported to all national credit bureaus, and (b) the guarantor may offset the borrower's state and federal tax refunds and other payments made by the federal government to the borrower, garnish the borrower's wages, or assign the loan to the federal government for litigation against the borrower.

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Two of the time frames involved when a rolling delinquency or a special occurrence exists on the account will also be modified because of the change in the timing of the first delinquency notice. The current 1-10 days delinquent and 11-90 days delinquent time frames will be changed, respectively, to 1-15 days delinquent and 16-90 days delinquent (16-120 days delinquent for a loan repayable in installments less frequent than monthly).

This change is effective for loans on which the first day of delinquency on the oldest outstanding due date is after July 1, 1997. The oldest outstanding due date is the date from which the current 180-day due diligence counter is based and is sometimes referred to as the "latest," "current," or "next" due date. Subsections 8.1.D., 8.1.E., and 8.1.G. of the *Common Manual* will be revised to reflect this change.

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**APPENDIX G**

**Page 11**

**Definition of Late Charges Modified**

The timing of when a lender may assess a late charge has changed from 10 days to 15 days after a payment is due. The definition of "late charges" in appendix G of the *Common Manual* has been revised to reflect this regulatory change:

**Late Charges:** Charges that the lender may require the borrower to pay if the borrower fails to pay all or a portion of a required installment payment within 15 days after it is due. This charge may not exceed 6 cents for each dollar of each late installment.

This change is effective for late charges assessed by the lender on or after July 1, 1997. Appendix G of the *Common Manual* will be revised to reflect this change.

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